

USA vs. Castillo - Resentencing - June 14, 2017

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

TRANSCRIPT OF RESENTENCING  
BEFORE THE HONORABLE ROBERT JUNELL  
SENIOR UNITED STATES DISTRICT JUDGE

## **APPEARANCES:**

**FOR THE GOVERNMENT:** MR. WILLIAM FRANKLIN LEWIS, JR., AUSA  
Office of the United States Attorney  
400 W. Illinois, Suite 1200  
Midland, Texas 79701

**FOR THE DEFENDANT:** MR. NELSON S. EBAUGH  
NELSON S. EBAUGH, P.C.  
1812 Dunlavy Street  
Houston, TX 77006

**COURT REPORTER:** MS. ANN M. RECORD, RMR, CRR, CMRS, CRI  
200 East Wall Street, Suite 222  
Midland, Texas 79701  
(432) 685-0361  
ann.record@txwd.uscourts.gov

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**GOVERNMENT  
EXHIBIT**

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## PROCEEDINGS

(At 10:25 a.m., proceedings commenced)

(Defendant present)

4 THE COURT: Will the clerk call the next case,  
5 please.

6 THE CLERK: The court calls Midland 14-CR-227, the  
7 United States of America vs. Stacey Louise Castillo.

8 MR. LEWIS: Bill Lewis on behalf of the United  
9 States, Your Honor. The government is ready.

10 MR. EBAUGH: Nelson Ebaugh on behalf of Stacey  
11 Castillo, and we're ready.

12 THE COURT: Ms. Castillo, would you state your name  
13 for me, please.

14 THE DEFENDANT: Stacey Castillo.

15 THE COURT: Also known as Stacey Louise Castillo?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you the defendant in this case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you understand we're here to

20 I resentence you from when I sentenced

21 several, several months ago.

22 THE DEFENDANT: Yes, sir

23 THE COURT: Okay. Did you have an opportunity to  
24 read the Presentence Report in this case?

25 THE DEFENDANT: Yes, sir.

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1                   THE COURT: Did you have an opportunity to discuss  
2 the case with your attorney?

3                   THE DEFENDANT: Yes, sir.

4                   THE COURT: And, Mr. Ebaugh, did you receive a copy  
5 of the Presentence Investigation Report in this case?

6                   MR. EBAUGH: Yes, Your Honor.

7                   THE COURT: Did you discuss it with your client?

8                   MR. EBAUGH: Yes, Your Honor.

9                   THE COURT: Does the defendant have any objections or  
10 corrections to the report?

11                  MR. EBAUGH: No, Your Honor.

12                  THE COURT: And the report I'm working off of it was  
13 revised on March 13, 2017. Is that the one you have too?

14                  MR. EBAUGH: Yes, Your Honor.

15                  THE COURT: Okay.

16                  I have reviewed the Presentence Investigation Report  
17 prepared by U.S. Probation Officer Douglas Bramley.

18                  I find the report accurate and correct, and I adopt  
19 the report and the application of the U.S. Sentencing  
20 Guidelines contained in the report.

21                  The total offense level is a 43.

22                  The criminal history category a II.

23                  The guideline range for custody on Count One is  
24 240 months which is the statutory maximum; Count Two is  
25 five years which is the mandatory minimum.

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1                   The defendant is ineligible for probation on either  
2 count.

3                   Supervised release on Count One is three years; and  
4 on Count Two, two to five years.

5                   The fine range on Count One is \$1 million; and on  
6 Count Two, \$250,000.

7                   Restitution is \$5,861.

8                   And the special assessment to the Crime Victims Fund  
9 is \$100 on Count One and \$100 on Count Two, for a total of  
10 \$200.

11                  Ms. Castillo, I would be glad to hear from you and  
12 your attorney on anything you will like for me to know before I  
13 pronounce sentence in your case. Anything you would like to  
14 say?

15                  MR. EBAUGH: Go ahead, Ms. Castillo.

16                  THE COURT: Do you have some family here today,  
17 Ms. Castillo?

18                  THE DEFENDANT: Yes.

19                  THE COURT: Why don't you turn around and say hi to  
20 them.

21                  (Defendant complies)

22                  MR. EBAUGH: Her parents are here and so is her aunt.

23                  THE COURT: Good.

24                  We appreciate y'all coming over here today. Thank  
25 you very much.

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1                   What else? Are you liking the prison where you --  
2 what prison -- I forget. Where are you now?

3                   THE DEFENDANT: They sent me to Aliceville, Alabama.

4                   THE COURT: Okay. Do you want to go back there, or  
5 do you want to go somewhere else?

6                   THE DEFENDANT: No, I want to go back there.

7                   THE COURT: Okay. I'll make -- what I do is make a  
8 recommendation, but it is up to the Bureau of Prisons to decide  
9 where you go.

10                  THE DEFENDANT: Right.

11                  THE COURT: But Aliceville, Alabama.

12                  THE DEFENDANT: Uh-huh.

13                  THE COURT: And what else? Any particular programs  
14 you want me to recommend?

15                  THE DEFENDANT: No. I did want to stress and I  
16 wanted to emphasize right now that I do apologize. I was angry  
17 back when you did sentence me, not angry for the reasons for --  
18 I was angry for a lot of reasons, but the main reason that I  
19 was angry was that this happened. It was not supposed to  
20 happen. I never intended for this to ever happen.

21                  I live with it every day, just like the Lamb family  
22 does. I'm sorry. I wish I could go back. There were so many  
23 things that I know that I would do different, but I just hope  
24 that they could just find it in their hearts and that they  
25 could find the peace and move on.

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1 THE COURT: Okay.

2 Mr. Ebaugh, what would you like to add?

3 MR. EBAUGH: Your Honor, as demonstrated in the trial  
4 testimony, Castillo -- Stacey Castillo never intended Sean  
5 Lamb's death. In fact, she was very angry that Sean Lamb was  
6 ultimately killed by Noe.

7 Your Honor, I hope the Court has been able to review  
8 the character letters that reflect her positive approach toward  
9 those around here while she's been in prison; and  
10 significantly, the character letters indicate that she hasn't  
11 had a single incident report since she has been in prison.

12 When Stacey Castillo is released in about 2040, she  
13 will be 66 years old. Significantly, there is a reduced  
14 recidivism rate for elderly people. Studies demonstrate that  
15 the risk of recidivism is adversely related to the inmate's  
16 age.

17 Your Honor, also, the sentence that's proposed by the  
18 probation office is in line with the sentences that both  
19 codefendant Anthony Gonzales and codefendant Rudolfo Paredes  
20 have received; that is, 240 months for the first count.  
21 Although Anthony Gonzales and Rudolfo Paredes were sentenced  
22 under Count Two for brandishing, which is seven years, it would  
23 be consistent in this case for her to receive five years since  
24 she did not brandish a gun.

25 Significantly, neither the government nor the

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1 probation office has identified factors that warrant a sentence  
2 outside the advisory guidelines; and this is Stacey Castillo's  
3 conviction -- first conviction under Section 924(c).

4 For these reasons, Stacey Castillo urges the Court to  
5 find that the sentence recommended by the probation office is  
6 appropriate.

7 THE COURT: Okay.

8 Mr. Lewis, what would you like to add?

9 MR. LEWIS: This case is back before Your Honor  
10 following a reversal from the Fifth Circuit on various factors  
11 and various determinations concerning the way in which the jury  
12 instructions were presented to the jury and the way in which  
13 the jury responded to some of the special questions that were  
14 asked of it.

15 In addition, the Fifth Circuit determined that the  
16 evidence against Ms. Castillo reflected a finding that she used  
17 and carried a firearm; and for that, she needed to be  
18 resentenced as to Count Two, and that's why we're here today.

19 Notably as the Court has indicated earlier, this case  
20 arose back in the summer of 2014. Ms. Castillo and several of  
21 her codefendants went to trial, I believe it was, in  
22 April 2015. But from the facts of the case, we know that this  
23 incident and the charges that arose from it for which  
24 Ms. Castillo was convicted involved some individuals that  
25 included the victim Sean Lamb supposedly stealing some

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1 methamphetamine from Ruben Hernandez and Liz Hernandez. And in  
2 their efforts to secure the recovery of those narcotics, they  
3 enlisted the aid of Ms. Castillo who by her own admissions in  
4 the trial testimony showed had the ability and skills in the  
5 Odessa area to find people.

6 There was evidence presented at trial, the Fifth  
7 Circuit notes it in the opinion, that the guns that were  
8 used -- or at least one of the guns that was used to murder  
9 Sean Lamb that day, a MAC-10, was brought by Anthony Gonzales,  
10 who was the boyfriend of Stacey Castillo. There was also  
11 evidence that Ms. Castillo brought a pink .38 to the -- into  
12 the conspiracy as well.

13 The Fifth Circuit also noted Ms. Castillo's comment  
14 that they would have to take care of Mr. Lamb and his friend  
15 Mr. Saenz and the other people involved in ripping off the dope  
16 because they had -- and the Fifth Circuit referenced the fact  
17 that the comment was made, "We had to get rid of them," because  
18 it was believed that they were snitches.

19 I believe in reading the opinion, the Fifth Circuit  
20 did not have a problem with the sufficiency of the evidence.  
21 That the evidence was overwhelming to support the guilt and the  
22 role of everybody in this case to support the convictions on  
23 Count One.

24 As to Count Two, as the Court has already noted, for  
25 Ms. Castillo, the minimum mandatory sentence in this case is

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1 five years to run consecutive to the sentence that she will  
2 serve in Count One.

3                   But when you take into consideration the factors  
4 under 18 U.S.C. 3553, which the government believes the Court  
5 can take into consideration in this sentencing, and you look at  
6 the nature and circumstances of the offense, the need for the  
7 sentence imposed to reflect the seriousness of the offense, to  
8 promote respect for the law, to provide just punishment, to  
9 afford adequate deterrence to criminal conduct, and to protect  
10 the public from further crimes of this defendant, the  
11 government believes that the evidence in this case would  
12 support a sentence on Count Two greater than the mandatory  
13 minimum of five years, and the government asks that based upon  
14 all the evidence that this Court heard during the trial of this  
15 case, the facts and circumstances as they are reflected in the  
16 Presentence Investigation Report, that taking into  
17 consideration 3553, this Court could and the facts support a  
18 sentence greater than the mandatory minimum five years.

19                   MR. EBAUGH: Your Honor, this is Nelson Ebaugh on  
20 behalf of Stacey Castillo. And Stacey Castillo objects to the  
21 government's request for an upward departure, or upward  
22 variance, because it had received no notice of such request  
23 until it was just made a minute ago.

24                   THE COURT: The sentence that I did on the gun  
25 possession, or the Count Two, for aiding and abetting

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1 possession of a firearm during a drug trafficking offense, I  
2 believe I -- was it a seven-year sentence that I did on the  
3 that offense?

4 MR. LEWIS: It was, Your Honor.

5 THE COURT: Okay. During the original trial was a  
6 seven-year sentence.

7 MR. LEWIS: You are correct, Your Honor.

8 THE COURT: Okay. All right. I am not departing  
9 from the recommended sentence.

10 Pursuant to the Sentencing Reform Act of 1984, which  
11 I have considered in an advisory capacity, and the sentencing  
12 factors set forth in 18 United States Code, Section 3553(a),  
13 which I have considered in arriving at a reasonable sentence,  
14 and I do find the guideline range in this case to be fair and  
15 reasonable, the following sentence is imposed:

16 Stacey Louise Castillo is placed in the custody of  
17 the U.S. Bureau of Prisons to serve a term of imprisonment of  
18 240 months on Count One and five years, or 60 months, on  
19 Count Two. Such counts to run consecutive with each other.

20 I'll recommend that she be placed at the women's  
21 facility at Aliceville.

22 That she get education and job training and drug  
23 treatment.

24 Upon release from the Bureau of Prisons, you are  
25 placed on supervised release on Count One for three years and

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1 on Count Two for five years, such counts to run concurrent with  
2 one another.

3 The general terms of supervised release are those set  
4 for the U.S. Courts for the Western District of Texas. The  
5 special terms of supervised release are as follows:

6 You shall not be permitted to reside anyplace where  
7 firearms are possessed or stored.

8 You shall abstain from the use of all intoxicants,  
9 including alcohol, marijuana, synthetic marijuana, and bath  
10 salts, while on supervision.

11 You will have no contact with your codefendants  
12 except for Anthony Ryan Gonzales.

13 You'll have no contact with the family of the victim  
14 in this case, Sean Michael Lamb.

15 You'll have no contact with any member of the West  
16 Texas Gang while you're on supervised release.

17 You shall pay any unpaid balance of restitution upon  
18 the commencement of your term of supervision on a schedule to  
19 be approved by the court. The restitution note shall be paid  
20 jointly and severally by all codefendants. The restitution  
21 payment is to be made to the follow victim: Ashley Lamb,  
22 \$5,861. And you'll actually make that payment to the clerk of  
23 our court who will then -- that way we can keep up with who all  
24 is paying their restitution payments. We will then forward  
25 that on to Ms. Lamb.

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1                   I find that you do not have the ability to pay a  
2 fine.

3                   You are required to pay the special assessment to the  
4 Crime Victims Fund of \$100 on Count One and \$100 on Count Two  
5 for a total of \$200.

6                   Ms. Castillo, you have the right to appeal your  
7 sentence and conviction, assuming your rights to appeal were  
8 not given up or waived as part of your plea agreement in this  
9 case. If you cannot afford an attorney to represent you on  
10 appeal, an attorney will be appointed for you.

11                  With few exceptions, any Notice of Appeal must be  
12 filed within 14 days from today in writing. And if you cannot  
13 afford it, a transcript of the record in this case will be  
14 prepared for appeal at the government's expense.

15                  Mr. Lewis, anything else from the government?

16                  MR. LEWIS: No, Your Honor.

17                  THE COURT: Anything else, Mr. Ebaugh?

18                  MR. EBAUGH: No, Your Honor.

19                  THE COURT: Any questions, Ms. Castillo?

20                  THE DEFENDANT: No, sir. Thank you.

21                  THE COURT: Yes, ma'am. Good luck to you, ma'am.

22                  THE DEFENDANT: Thank you.

23                  THE COURT: At this time you are remanded back into  
24 the custody of the United States Marshals.

25                  (Proceedings concluded at 10:38 a.m.)

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## 2 C E R T I F I C A T E

3  
4 I, ANN M. RECORD, RMR, CRR, CMRS, CRI, Federal  
5 Official Court Reporter, certify that the foregoing is a  
6 correct transcript from the proceedings in the  
7 above-entitled matter.8  
9  
10 Date: 7/12/2018*/s/Ann M. Record*

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11 Ann M. Record, RMR, CRR, CMRS, CRI  
12 United States Court Reporter  
13 200 East Wall Street, Suite 222  
14 Midland, Texas 79701  
15 Telephone: (432) 685-0361  
16 e-mail: [ann\\_record@txwd.uscourts.gov](mailto:ann_record@txwd.uscourts.gov)17  
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